IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

Criminal Misc. Application No. 550 of 2006

Suresh Sharma S/o Jagdish Sharma
R/o Gram Mahuwakhera
P.S. Kashipur
District Udham Singh Nagar .... Applicant

Vs

1. State of Uttaranchal
2. Judicial Magistrate, Ramnagar
   District Nainital
3. Smt. Shakuntala Devi
   W/o Suresh Sharma
   R/o Mohalla Khatadi Indra Colony
   P.S. Ramnagar
   District Nainital .... Respondents

Sri Amrish Agarwal, learned counsel for the applicant

Hon'ble B.C. Kandpal, J.

This petition under Section482 Cr.P.C. has been filed by the petitioner – Suresh Sharma for quashing the impugned order dated 05.09.2005 passed by the Judicial Magistrate for facing the trial under Section 452, 504, 506 I.P.C.

2. Brief facts of the case are that the case under Section 125 Cr.P.C. had earlier been filed by respondent No. 3 against the petitioner and in that case, the court concerned directed to pay an amount of Rs. 250/- per month regularly for maintenance to the respondent No. 3. As the petitioner has not been paying an amount of Rs. 250/- as awarded by the court to the respondent No. 3 for the last three years, therefore, the respondent No. 3 wanted to start proceedings for recovery of some money.

3. The allegations made in the complaint are that the petitioner including three companions entered in the house of

the respondent No. 3 and threatened her with dire consequences. The petitioner also asked the respondent No. 3 that she should not do any *Pairvi* for the claim of the maintenance amount and in case, if she continue the *Pairvi* then she along with her daughter will be murdered.

4. After the institution of the complaint the statement of the complainant was recorded under Section 200 Cr.P.C. and thereafter statements' of the witnesses were also recorded under Section 202 Cr.P.C. The Magistrate after having been satisfied from the complaint as well as the statements of the witnesses issued direction vide order dated 05.09.2005 for summoning the petitioner for facing the trial under Section 452, 504 and 506 I.P.C.

5. Feeling aggrieved by the aforesaid impugned order, this petition has been filed.

6. Heard Sri Amresh Aggarwal, learned counsel for the petitioner, learned A.G.A. and perused the record.

7. I do not find any abuse of process of the court. Learned Magistrate while passing the summoning order is not supposed to assess the evidence meticulously. There is a prima-facie case against the petitioner and the Magistrate after having been satisfied, has passed the summoning order.

8. I do not find any infirmity in the impugned order passed by the Magistrate for summoning the petitioner to face the trial.

9. I am also not supposed to embark upon an enquiry with regard to the credibility of the evidence which is as yet

incomplete and hazy. It is for the trial judge to decide the matter in controversy on the disputed question of facts.

10. The petition lacks merit and is liable to be dismissed.

11. Accordingly, the petition under Section 482 Cr.P.C. is dismissed.

(B.C. Kandpal, J.)

17.07. 2006
ASWAL